

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ROBERT SHEREZ,)	CIV. NO. 04-00390 JMS-KSC
)	CIV. NO. 06-00367 SPK-KSC
Plaintiff,)	
)	
vs.)	ORDER DENYING MOTION FOR
)	CONSOLIDATION
)	
STATE OF HAWAII)	
DEPARTMENT OF EDUCATION;)	
PATRICIA HAMAMOTO,)	
Superintendent of Hawaii)	
Schools, MEREDETH MAEDA,)	
Principal, Castle High)	
School; SARA GRONNER OR)	
GRONNA, Vice Principal of)	
Castle High School)	
)	
)	
Defendants.)	
_____)	

ORDER DENYING MOTION FOR CONSOLIDATION

On November 2, 2006, Defendants State of Hawaii Department of Education, Patricia Hamamoto, Meredeth Maeda, and Sara Gronner or Gronna ("Defendants") filed a Motion for Consolidation ("Motion") seeking to consolidate Civil No. 04-00390 JMS-KSC ("first case") with Civil No. 06-00367 SPK-KSC ("second case"). On November 14, 2006, Plaintiff Robert Sherez

("Plaintiff") filed an Opposition ("Opposition"). On November 17, 2006, Defendants filed a Reply ("Reply").

The matter came on for hearing on November 30, 2006. Deputy Attorney General Nelson Y. Nabeta appeared on behalf of Defendants. Attorney Andre Wooten failed to appear at the hearing on behalf of Plaintiff.

Defendants argue that the Court should consolidate the two cases because they involve common questions of law and fact. In particular, Defendants note that the second case names the same parties that were named in the first case. In addition, Defendants argue that both complaints assert the same factual allegations and claims of liability. Plaintiff argues that the Court should not consolidate the cases because the second case focuses on retaliation occurring after the discrimination alleged in the first case.

Federal Rules of Civil Procedure ("FRCP") 42(a) states: "[w]hen actions involving a common question of law or fact are pending before the court, it . . . may

order all the actions consolidated" Fed. R. Civ. P. 42(a). A district court has broad discretion under FRCP 42(a) to consolidate cases pending in the same district. See Investors Research Co. v. United States District Court, 877 F.2d 777 (9th Cir. 1989); see also 9 Wright & Miller, Federal Practice and Procedure: Civil 2d § 2383.

The Court, after carefully reviewing the complaints filed in the two cases, finds that while the two cases include many of the same and/or similar factual allegations and claims, some of the conduct alleged in the second case is of a different time, manner and circumstance than in the first case and the second case adds two different defendants. As a result, the Court cannot say that consolidation would promote judicial economy in this case. Consequently, the Court, exercising its discretion, DENIES the Motion.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, November 30, 2006.




Kevin S.C. Chang
United States Magistrate Judge

CIVIL NO. 04-00390 JMS-KSC; ROBERT SHEREZ V. STATE OF HAWAII DEPARTMENT OF EDUCATION,
et al.; ORDER DENYING MOTION TO CONSOLIDATE